



Spy Pond Park & Parmenter School Playground Improvements - Addendum No. 1

Bid #22-17

22 April 2022

ADDENDUM NO. 1

***All Bidders must Acknowledge Addendum No.1 in their Bid.**

Specifications:

Table of Contents:

- Appendix A – Town of Arlington Conservation Commission Order of Conditions, dated March 30, 2022.

Specifications:

- In spec section 11 84 00, remove section 2.07 freestanding spring riders and replace with the following:

2.07 freestanding spring riders: Basis of design: The basis of design for the freestanding spring riders are the Single Springer, Model #KPL119 as manufactured by Kompan, Inc. The freestanding spring rider is designed for the 2- to 5-year age range.

Materials:

- Panels to be made of 19mm EcoCore, consisting of a core produced from 100% recycled material.
- Handholds and footrests are made of injection molded high quality nylon (PA6).
- Springs are made of high quality spring steel according to EN10270, with epoxy primer and powdercoating top finish and include anti-pinch fittings.
- Seat is made from molded PP insert with an outer soft layer of TPE rubber.
- Warranty info:
 - EcoCore HDPE: lifetime
 - Springs: 5 years
 - Handle: 10 years
 - PE/PP components: 5 years
 - Spare parts guaranteed: 10 years

Attachments:

- a. Town of Arlington Conservation Commission Order of Conditions, dated March 30, 2022.

Kyle Zick Landscape Architecture, Inc.

36 Bromfield Street, Suite 202, Boston, MA 02108
t: 617-451-1018 e: kzick@kylezick.com www.kylezick.com



TOWN OF ARLINGTON

730 Massachusetts Ave.
Arlington, MA 02476
781-316-3012

ARLINGTON CONSERVATION COMMISSION

CERTIFIED MAIL

March 30, 2022

Joseph Connelly
422 Summer Street
Arlington MA 02476

RE: Order of Conditions for 0 Pond Lane - DEP File Number 091-0339

Enclosed is the original Order of Conditions permit for the above-referenced project, issued pursuant to the Wetlands Protection Act, GL c. 131, § 40, and the Arlington Bylaw for Wetland Protection, Title V, Article 8.

No work on the project may begin until ALL of the following requirements have been satisfied:

- ☐ You have signed and returned to this office the attached Certificate of Understanding.
- ☐ The 10-business day appeal period has elapsed. The appeal period begins on the date of issuance of the Order.
- ☐ You have had the original Order recorded at the Middlesex South Registry of Deeds and the receipt forwarded to the Conservation Commission. The Order is not valid until properly recorded.
- ☐ The DEP file number sign has been erected at the project entrance (as specified in the General Conditions).
- ☐ You have read and understand the enclosed Order of Conditions. Compliance with all conditions and the approved plans is the responsibility of the applicant. Deviation from the approved plans may result in a stop work order or further enforcement, as well as the inability to obtain a Certificate of Compliance.
- ☐ You have conducted a "pre-construction site visit" with the Conservation Administrator, installed erosion controls, submitted in writing the names and telephone numbers of the parties responsible for the work (such as the general contractor, erosion control monitor, field engineer, and wetland scientist), and submitted a schedule of construction, as applicable.
- ☐ Please note that there may be other specific requirements in your Order of Conditions, which may be required for your site. Please be sure to read the whole Order. It is your responsibility to comply with all aspects of the Order.

Upon completion of the project, you must submit:

- ☐ A "Request for a Certificate of Compliance" (state WPA form 8a) and
- ☐ An engineer-stamped and signed "as-built plan" to the Conservation Commission stating that all conditions have been satisfactorily completed in compliance with the plans and the Order.

Once received, your Certificate of Compliance must be recorded at the Middlesex South Registry of Deeds, and the receipt sent to the Conservation Office (as per the Wetlands Protection Regulations).

Please contact our office with any questions at 781-316-3012 or email concomm@town.arlington.ma.us.

Thank you,



David Morgan
Environmental Planner/Conservation Agent

Enclosures: Order of Conditions
Certificate of Understanding

Cc:file, DEP-NERO



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

091-0339

MassDEP File #

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A. General Information

Please note:
 this form has
 been modified
 with added
 space to
 accommodate
 the Registry
 of Deeds
 Requirements

1. From: Arlington
Conservation Commission

2. This issuance is for
 (check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Joseph

a. First Name

Connelly

b. Last Name

Town of Arlington Park & Recreation Commission

c. Organization

422 Summer Street

d. Mailing Address

Arlington

e. City/Town

MA

f. State

02476

g. Zip Code

4. Property Owner (if different from applicant):

a. First Name

b. Last Name

c. Organization

d. Mailing Address

e. City/Town

f. State

g. Zip Code

5. Project Location:

0 Pond Lane

a. Street Address

Arlington

b. City/Town

Map 9 Block 3

c. Assessors Map/Plat Number

Lot 1

d. Parcel/Lot Number

Latitude and Longitude, if known:

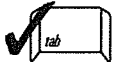
42d24m40.2192s

d. Latitude

75d9m1.872s

e. Longitude

Important:
 When filling
 out forms on
 the
 computer,
 use only the
 tab key to
 move your
 cursor - do
 not use the
 return key.





Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Middlesex

N/A

a. County

b. Certificate Number (if registered land)

5432

478

c. Book

d. Page

7. Dates: 02/01/2022 03/03/2022 03/29/2022
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Notice of Intent: Spy Pond Playground & North Beach Ramp

a. Plan Title

Kyle Zick Landscape Architecture

Kyle Zick

b. Prepared By

c. Signed and Stamped by

03/03/2022

d. Final Revision Date

e. Scale

Spy Pond Playground & North Beach Ramp Supplemental
Materials

03/03/2022

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☒ Prevention of Pollution
d. ☐ Private Water Supply e. ☒ Fisheries f. ☒ Protection of Wildlife Habitat
g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☒ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 0
a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 03/29/2025 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 091-0339 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
 - (1) ☐ is subject to the Massachusetts Stormwater Standards
 - (2) ☒ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



**Massachusetts Department of Environmental Protection
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See attached Findings and Conditions

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Arlington Conservation Commission hereby finds (check one that applies):

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Arlington Bylaw for Wetlands Protection

Title V, Art 8

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See attached Findings and Conditions



Massachusetts Department of Environmental Protection
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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

1. Date of Issuance

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signature [Handwritten Signature]

Printed Name Susan Chapnick

Signature [Handwritten Signature]

Printed Name Charles Tirone

Signature [Handwritten Signature]

Printed Name Pamela Heidell

Signature [Handwritten Signature]

Printed Name David Kaplan

Signature _____

Printed Name _____

Signature _____

Printed Name _____

Signature _____

Printed Name _____

Signature _____

Printed Name _____

☐ by hand delivery on

☒ by certified mail, return receipt requested, on

Date _____

03.30.22
 Date

1225-1765

1225-1765

1225-1765



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F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

1. Date of Issuance

2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

☐ by hand delivery on

☐ by certified mail, return receipt requested, on

Date

Date



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

091-0339

MassDEP File #

eDEP Transaction #

Arlington

City/Town

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Arlington

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Arlington

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number: _____

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP _____

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Request Information

1. Location of Project

a. Street Address _____

b. City/Town, Zip _____

c. Check number _____

d. Fee amount _____

2. Person or party making request (if appropriate, name the citizen group's representative):

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

4. DEP File Number: _____

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



B. Instructions

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- ☐ Superseding Determination of Applicability – Fee: \$120
- ☐ Superseding Order of Resource Area Delineation – Fee: \$120



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Instructions (cont.)

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

ARLINGTON CONSERVATION COMMISSION
ORDER OF CONDITIONS 0 Pond Lane, Spy Pond Playground DEP FILE NO. 091-0339
& North Beach Ramp

DOCUMENTS REVIEWED

1. Notice of Intent – Spy Pond Playground & Ramp Project, by Kyle Zick Landscape Architecture, February 3, 2022, with attachments.
2. Plans titled “Arlington Playgrounds” February 1, 2022, stamped by Kyle S. Zick, Registered Landscape Architect. Sheets L1.1, L2.1, L3.1
3. Spy Pond Playground & North Beach Ramp Supplemental Materials, March 3, 2022, with tree protection and erosion control details, updated grading and planting plan (L3.1)
4. KZLA letter with supplemental information on Spy Pond Surfacing, February 23, 2022
5. “Playground Surfacing, Choosing Safer Materials for Children’s Health and the Environment,” Toxics Use Reduction Institute (TURI), UMass Lowell, Report #2018-003, December 2018
6. Safety Data Sheet (SDS) WoodCarpet, Zeager Bros., Inc.
7. Safety Data Sheet (SDS) Playbound Binder (Green Label), Advanced Polymer Technology

PROCEDURAL SUMMARY

The Notice of Intent was filed on February 3, 2022. The Conservation Commission opened the public hearing for the Notice of Intent on February 17, 2022. The hearing was continued with the applicant’s consent to the following meeting on March 3, 2022. The Commission closed the hearing on March 3, 2022. The Commission deliberated on March 3, 2022 and voted unanimously to approve the Project with conditions under the Wetlands Protection Act (the “Act”) and voted unanimously to approve the Project with conditions under the Arlington Wetlands Protection Bylaw (the “Bylaw”).

**FINDINGS OF FACT AND LAW
UNDER ARLINGTON WETLANDS PROTECTION BYLAW
AND WETLANDS PROTECTION ACT**

- A. The Project as approved includes improvements to the Spy Pond Playground: replacing play equipment, replacing safety surfacing and fencing, installing a new playground entrance, and replacing the pathway material at North Beach Ramp. All work will take place in the existing footprint of Spy Pond Playground and North Beach Ramp. New play equipment will include swing sets, monkey bars, spring riders, and other amenities. The replacement surfacing is to be engineered wood fiber with a section of walkway made of poured-in-place rubber. The new entrance will connect the playground to Pond Lane, a distance of 24’, and will be made of porous pavement flanked by loam and seed shoulders. The changes to North Beach Ramp include resurfacing with porous pavement (396 sq. ft.) and associated grading (to <5%).
- B. The Project site consists of 9,195 sq. ft. located almost entirely within the Buffer Zone/Adjacent Upland Resource Area to Spy Pond, the exception being the northernmost corner of the playground. The site includes 2,945 sq. ft. within the 50’ buffer of the Bank to Spy Pond. A construction staging area will be located outside of the 100’ buffer in the adjacent parking lot.

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ORDER OF CONDITIONS 0 Pond Lane, Spy Pond Playground DEP FILE NO. 091-0339
& North Beach Ramp

- C. The project is located within the habitat of Engelmann's Umbrella-Sedge and the application includes a Natural Heritage & Endangered Species Program letter from the Massachusetts Division of Fisheries and Wildlife.
- D. Four deciduous trees will be planted, one red maple (2.5-3" caliper), one river birch (12-14' height), one tulip tree (2.5-3" caliper), and one swamp white oak (2.5-3" caliper).
- E. The following Resource Areas are present on the site or within 100 feet of the project area: Inland Bank, Bordering Vegetated Wetland, and Adjacent Upland Resource Area and Buffer Zone associated with Bank and Bordering Vegetated Wetland. The Commission finds accurate the delineation of Resource Areas shown on the approved Site Plans.
- F. The planned artificial synthetic surfaces are not consistent with climate resilience standards in the Bylaw because of heat island effects as well as due to potential negative impacts to water quality and aquatic organisms in adjacent Spy Pond. The Conservation Commission finds that limiting the poured-in-place (PIP) rubber surface to 22.3% of the overall surfacing within the playground, with the remaining 77.7% as engineered wood fiber (EWF), is an acceptable compromise in consideration of accessibility, resource area protections, and climate change resilience.
- G. Based on the testimony at the public hearings, and review of the application materials and the documents listed above submitted during the public hearings, the Commission concludes that the proposed Project as conditioned will not have significant or cumulative effects upon the interests of the Resource Area values of the Massachusetts Wetlands Protection Act and the Arlington Bylaw for Wetlands Protection when the conditions imposed herein are implemented to protect the Resource Area values. With these conditions contained, the Project meets the performance standards in the Act and Bylaw and implementing regulations. For the foregoing reasons, the Commission approves this project under the Act and Bylaw with the conditions stated herein and in the application for work at Spy Pond Playground and the ramp to Spy Pond located at North Beach, 0 Pond Lane, Arlington.

ADDITIONAL SPECIAL CONDITIONS

In addition to the General Conditions (numbered 1 – 20 above), the Project is subject to the following Additional Special Conditions (under both the Act and Bylaw):

Pre-Construction

- 21. Work permitted by this Order and Permit shall conform to the Notice of Intent, the approved plans and documents (listed above), and oral representations (as recorded in hearing minutes) submitted or made by the Applicant and the Applicant's agents or representatives, as well as any plans and other data, information or representations submitted per these Conditions and approved by the Commission.

ARLINGTON CONSERVATION COMMISSION

ORDER OF CONDITIONS 0 Pond Lane, Spy Pond Playground DEP FILE NO. 091-0339
& North Beach Ramp

22. The provisions of this Order and Permit shall apply to and be binding upon the Applicant and Applicant's assignees, tenants, property management company, employees, contractors, and agents.
23. No work shall begin under this Order until: (a) all other required permits or approvals have been obtained and (b) the appeal period of ten (10) business days from the date of issue of this Order has expired without any appeal being filed, and (c) this Order has been recorded in the Registry of Deeds. No work shall be started under this Permit until all other necessary permits or approvals have been obtained.
24. The Applicant shall ensure that a copy of this Order of Conditions and Permit for work, with any referenced plans, is always available on site, and that all contractors, site managers, foremen, and sub-contractors understand its provisions.
25. Prior to starting work, the Applicant shall submit to the Commission the names and 24-hour phone numbers of project managers or the persons responsible for site work or mitigation.
26. Before work begins, erosion and sediment controls shall be installed at the limits of the work area. These will include 12-inch mulch sock around the entire work area (hay bales are not allowed).
27. The contractor shall contact the Conservation Agent (concomm@town.arlington.ma.us; 781-316-3012) to arrange for a pre-construction meeting with the onsite project manager to walk through the Order of Conditions and walk the site to confirm the installation and placement of erosion controls prior to the start of any grading or construction work.
28. The contractor shall provide written Notice of the work start date to the Conservation Agent 48 hours prior to start of work.
29. The Commission, its employees, and its agents shall have the right of entry onto the site to inspect for compliance with the terms of this Order of Conditions and Permit until a Certificate of Compliance has been issued.
30. The Commission is reserving its right to require an independent environmental monitor to monitor the project and report back to the Commission if the Commission determines one is necessary at any time during the project's construction.

Post-Construction

31. When requesting a Certificate of Compliance for this Order of Conditions, the Applicant must submit a written statement from either a (1) Massachusetts professional engineer and registered land surveyor, or (2) registered land surveyor and landscape architect certifying that the completed work complies with the plans referenced in this Order, or provide an as-built plan and statement describing any differences.

Dumpsters

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& North Beach Ramp

32. All dumpsters must be covered at the end of each workday, and no dumpsters will be allowed overnight within the 100-foot Buffer Zone or Adjacent Upland Resource Areas ("AURA") or other Resource Areas.

Stockpiling

33. No uncovered stockpiling of materials shall be permitted overnight within 100 feet of any waterway or water body. Stockpiling shall occur only where noted on approved plans.

Erosion Control

34. Areas that are disturbed by construction and access activities shall as soon as possible be brought to final grade and reseeded and restabilized and shall be done so prior to the removal of erosion control barriers.
35. Erosion control measures shall be installed per the approved plans.
36. At least 21 days prior to construction, a written dust mitigation plan shall be submitted to the Conservation Commission for approval by the Conservation Agent. This dust mitigation plan shall be implemented through the duration of the project.

Equipment

37. No heavy equipment may be stored overnight within 50 feet of the Pond and no refueling or maintenance of machinery shall be allowed within the 100-foot Buffer Zone, Adjacent Upland Resource Area, or within any Resource Area.
38. Construction entrances shall be used and maintained only where noted on approved plans.

Sweeping

39. Any dirt or debris spilled or tracked onto any paved streets shall be swept up and removed daily.

Dewatering

40. Any dewatering operations shall conform to the following:
- (a) Notify the Conservation Commission that dewatering is required.
 - (b) Any catch basins, drains, and outfalls to be used in dewatering operations shall be cleaned out before operations begin.
 - (c) Any water discharged as part of any dewatering operation shall be passed through filters, on-site settling basins, settling tank trucks, or other devices to ensure that no observable sediments or pollutants are carried into any Resource Area, street, drain, or adjacent property.
 - (d) Measures shall be taken to ensure that no erosion or scouring shall occur on public or private property, or on the banks or bottoms of water bodies, as a result of dewatering operations.
 - (e) Dewatering shall occur only where noted on approved plans.

Plantings

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41. As mitigation for excess heat from synthetic surfaces and to improve functions of the resource area, four trees will be planted in the playground, as listed on the Grading and Planting Plan, L3.1 of Document #3. All trees shall be native and be installed and maintained according to the standards of the American Association of Nurserymen (AAN). **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.**
42. All trees planted for this project shall be monitored for three years. A survival rate of 100% must be maintained for the approved trees at the end of the third monitoring year. If there is less than 100% survival after the third year, the Applicant must submit recommendations for replacements to the Conservation Agent for approval. A monitoring report shall be submitted annually in June for the three-year monitoring period, reporting on the health of the new trees.
43. The Applicant shall during construction protect all area trees per the Town Wetlands Protection Regulations, Section 24 Vegetation Removal and Replacement, protecting trees through securing (not nailing) 2x4 boards, between 6-8 feet in length, around tree base. The boards shall be installed vertically such that one end is installed directly into the ground. Alternative protection measures must be approved by the Commission or its agent.

Chemicals

44. To avoid adding excess nutrient runoff, the Applicant shall only treat the planted areas with No-Phosphorus, slow-release Nitrogen fertilizer. Application of this fertilizer cannot occur in the summer, or before, during, or immediately after storm events. No other herbicides or treatment methods are approved unless otherwise noted in this order. New plantings shall only be fertilized once, during the initial planting year. No pesticides or rodenticides shall be used to treat pest management issues with the 100-ft wetlands buffer, AURA, or other resource areas. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.**

Pervious Surfaces

45. Pervious surfaces, including the playground surfaces and the ramp at north beach, shown on the project plans shall be maintained and not be replaced by impervious surfaces. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.**
46. All mitigation as proposed as part of this project shall remain in perpetuity. The approved plantings shall remain in perpetuity and if replacement is necessary, shall be subject to the approval of the Commission. **This shall be a continuing condition that survives the expiration of this permit/Order and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.**

Snow Removal

47. The Applicant shall submit a snow storage plan to the Commission for review. No snow storage is permitted within any resource areas. **This shall be a continuing condition that**

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survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.

Playground Surfaces

48. The Engineered Wood Fiber (EWF) must be tested and proven to be free of CCA, which is a toxic insecticide and wood preservative composed of arsenic, chromium, and copper. Prior to work beginning, the Applicant shall submit to the Commission EWF manufacturer test data on material toxicity for arsenic, chromium, and copper to ensure that no CCA-treated wood has been mixed in with the playground EWF materials. If this information is not available from the manufacturer, a representative sample of the EWF shall be tested by a third-party consultant using the following standard. Testing results shall be submitted to the Conservation Commission before installation.
- (a) CAM 17 (California Administrative Manual, Title 22): law intended to protect drinking water sources from heavy metals, includes testing and threshold requirements for 17 heavy metals of concern. Analysis of a representative EWF sample for a subset of the CAM 17 metals: arsenic, chromium, and copper. Testing results must be less than the California OEHHA "Soil-Screening values for Non-volatile Chemicals Based on Total Exposure to Contaminated Soil: Inhalation, Ingestion, and Dermal Absorption; Residential Scenario".
49. The PIP rubber product contains materials that are harmful to the aquatic environment (based on material specification sheets in Documents #4, 5, and 7). To mitigate this potential harm, preparation of the PIP rubber must be staged in a containment area outside of the playground and outside of the 100 ft Buffer/Adjacent Upland Resource Area to Spy Pond with erosion/containment controls to prevent the material from migrating into resource areas via surface water, sewers, or groundwater. The contractor shall contact the Conservation Agent (concomm@town.arlington.ma.us; 781-316-3012) to inspect the containment area prior to PIP rubber preparation and installation.
50. PIP rubber surface top layer must not be black and shall instead be lighter colors to help mitigate heat effects as a climate change resilience strategy.
51. The PIP rubber specifications shall comply with the following three standards. A sample of the selected PIP rubber surface material shall be tested by a third-party consultant to ensure compliance with the following performance standards. As PIP rubber specifications include a base layer (styrene-butadiene rubber and polyurethane) and a top layer (ethylene propylene diene monomer rubber and polyurethane), and it is assumed that the base material will be capped by the top layer, only the top layer requires independent testing. Testing results shall be submitted to the Conservation Commission before installation.
- I. CAM 17 (California Administrative Manual, Title 22): law intended to protect drinking water sources from heavy metals, includes testing and threshold requirements for 17 heavy metals of concern. Analysis of the PIP rubber top layer material for all 17 CAM metals: antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, lead, mercury, molybdenum, nickel, selenium, silver, thallium, vanadium, and zinc. Testing results must be less than the California OEHHA "Soil-Screening values for Non-volatile Chemicals

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Based on Total Exposure to Contaminated Soil: Inhalation, Ingestion, and Dermal Absorption; Residential Scenario”.

- II. Volatile Organic Compounds (VOCs): Detected results for VOCs in the PIP rubber shall not exceed the MassDEP MCP Method 1 Standards for S1/GW1 using EPA Method 8260C Gas Chromatography-Mass Spectrometry (GC/MS) and methanol preservation (EPA Method 5035A) for MCP-regulated VOCs. Required reporting limits for non-detected compounds must be less than or equal to one half of the Method 1 Standard in $\mu\text{g/Kg}$ dry weight. The MCP document “Quality Control Requirements and Performance Standards for the Analysis of Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS) in Support of Response Actions under the Massachusetts Contingency Plan (MCP),” WSC-CAM-IIA, July 2010 shall be used as guidance for acceptable analysis of VOCs in the PIP rubber materials and for the required VOC analyte list (Table II A-2 of WSC-CAM-IIA).
 - III. Semi Volatile Organic Compounds (SVOCs): Detected results for SVOCs in the PIP rubber shall not exceed the lower of the MassDEP MCP Method 1 Standards for S1/GW1 using EPA Method 8270D Gas Chromatography-Mass Spectrometry (GC/MS) for MCP-regulated SVOCs. The full-list of MCP-regulated SVOCs must be tested in the PIP rubber material. Required reporting limits for non-detected compounds must be less than or equal to one half of the Method 1 Standard in $\mu\text{g/Kg}$ dry weight. The MCP document “Quality Control Requirements and Performance Standards for the Analysis of Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS) in Support of Response Actions under the Massachusetts Contingency Plan (MCP),” WSC-CAM-IIB, July 2010 shall be used as guidance for acceptable analysis of SVOCs in the PIP rubber materials and for the required SVOC analyte list (Table II B-2 of WSC-CAM-IIB).
52. When the poured-in-place (PIP) rubber artificial surface needs to be replaced, the Applicant shall contact the Conservation Commission to schedule a public hearing to determine the most appropriate material for replacement. **This shall be a continuing condition that survives the expiration of the permit and shall be included in any Certificate of Compliance as a continuing condition in perpetuity.**

